



RICK CLAYBURGH
TAX COMMISSIONER

North Dakota Office of State Tax Commissioner

FINANCIAL INSTITUTIONS

Sales and Use Tax Guideline

Premium Merchandise Offered as Customer Incentives

Financial institutions which offer premium merchandise to their depositors are the *final users* of such merchandise and must pay sales or use tax on the cost of the goods. Sales tax should be paid directly to the supplier of the merchandise if it is purchased from a North Dakota supplier or from an out-of-state supplier who holds a North Dakota sales tax permit. If the supplier does not have a North Dakota sales or use tax permit, the financial institution should enter the cost of the purchases on the *Items Subject To Use Tax* line of the North Dakota sales and use tax return and remit the use tax directly to the Office of State Tax Commissioner.

Sales of Repossessed Merchandise

A financial institution that repossesses merchandise and later resells that merchandise is a retailer and must charge sales tax on the sale of the repossessed merchandise. No North Dakota sales tax applies to the sale of repossessed real estate nor does it apply to the sale of repossessed mobile homes, used farm machinery, used irrigation equipment and all farm repair parts since these items are exempt from North Dakota sales tax. Sales tax does not apply to sales of motor vehicles including trucks, trailers, travel trailers, snowmobiles, ATVs and motorcycles as the purchaser is required to pay motor vehicle excise tax on these items when the vehicle is titled.

Clerking at Auction Sales

Many banks act as clerks at public auction. If the institution is responsible for clerking an auction of a retailer who is selling retail inventory, sales tax must be collected on the sales of inventory and must be remitted to the State Tax Commissioner. Sales tax does not apply to sales of furniture, fixtures and other capital assets which belong to the business. Sales tax does not apply when clerking a household sale or a farm sale at which the auctioneer is simply disposing of the household goods or the farm machinery of an individual. However, sales tax may apply when an auctioneer is conducting a *consignment auction*.

Sales of Miscellaneous Merchandise

Financial institutions are responsible for collecting sales tax when selling miscellaneous items such as savings banks, purses, pocket secretaries, check book covers and similar merchandise. Check blanks also are subject to sales tax but most of the companies which print check blanks have a sales tax permit and properly charge North Dakota sales tax so banks and other financial institutions need not collect additional sales tax on these sales.

Leasing Tangible Personal Property

North Dakota sales and use tax law imposes a sales or use tax on the lease or rental of tangible personal property in North Dakota. Many financial institutions lease or rent tangible personal property to customers. If the institution rents or leases personal property to final consumers in the state, the financial institution is responsible to collect North Dakota sales tax on the rental payments. The personal property being leased should be purchased tax free by providing a Certificate of Resale to the supplier. These provisions of sales tax law do not include motor vehicle or real property leases.

Rental of Motor Vehicles

North Dakota sales tax applies on the rental charges of **any** licensed motor vehicle, including every trailer or semi trailer as defined in subsection 2 of N.D.C.C. § 57-55-10, for periods less than 30 days in this state. In addition to the general sales tax rate, a 3 percent rental surcharge also applies on the rental charges of any motor vehicle having a gross vehicle weight of **ten thousand pounds** (4535.92 kilograms) **or less** and required to be registered for use on the streets and highways of this state.

The general sales tax and the 3 percent surcharge are computed and collected on the total rental charge, excluding taxes, fuel collections, collision damage waiver charges, supplemental liability protection, personal accident insurance, personal effects coverage and airport authority fees. Both taxes are collected at the same time as the rental fees and each tax must be listed separately on the invoice. The entire rental is subject to tax if the renter takes possession of the vehicle in North Dakota. City and County sales taxes do **not** apply to motor vehicle rentals. The general sales tax is reported on the North Dakota sales tax return. The 3 percent surcharge is reported annually on a special surcharge return.

Rentals of motor vehicles for 30 days or more are not subject to the general sales tax or the 3 percent surcharge.

Lease of Motor Vehicles

The lease or purchase of a motor vehicle is subject to North Dakota motor vehicle excise tax rather than sales tax. The owner of the vehicle is responsible to remit the motor vehicle excise tax to the North Dakota Department of Transportation's Motor Vehicle Division at the time the vehicle is titled and registered. The tax is calculated on the vehicle purchase price or the total of the lease consideration depending on the lease period and vehicle weight.

For more detailed information about sales tax on vehicle rentals or motor vehicle excise tax on vehicle leases, see our *Lease or Rental of Motor Vehicles* guideline.

Sales of Gold, Silver and Legal Tender

State sales tax law exempts the gross receipts from sales of legal tender. This exemption does not extend to the sale of gold or silver ingots or other valuable metals which are not legal tender. The sale of silver or gold futures contracts are not subject to sales tax in North Dakota as long as the actual merchandise, i.e., the gold or silver, is not physically located within the state of North Dakota.

Sales of Bookkeeping, Payroll and Computer Services

Financial institutions may perform contract service work for clients or customers. These services may include bookkeeping or accounting services, payroll services and computer services. These are all nontaxable services under current sales and use tax statutes and charges for these services are not subject to North Dakota sales or use tax. All of the equipment, materials or supplies utilized by the financial institution in providing these nontaxable services are subject to sales or use tax.

Purchases by Financial Institutions for Their Own Use

All financial institutions purchase equipment and supplies for their own use. These purchases may include computers, office equipment, office furniture, office supplies, cleaning supplies and similar items. All of these items, when purchased for the use by the financial institution, are subject to North Dakota sales or use tax. If these items are purchased from a supplier who holds a North Dakota sales and use tax permit, North Dakota sales tax should be paid directly to the supplier. If these items are purchased from a supplier who does not charge North Dakota sales or use tax, the purchaser must include the cost of these purchases on the *Items Subject To Use Tax* line of the North Dakota sales and use tax return and remit the use tax due on those items directly to the State Tax Commissioner.

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